

Application Serial No.: 09/986,622
Attorney Docket No.: 09877.0189-00

REMARKS

Applicants respectfully request entry of this amendment after final and reconsideration of the present application in view of the amendments and remarks included herein. Prior to entry of this response, claims 34-37, 40-45, and 51 were pending in the application, of which claims 34 and 51 were independent. In the Office Action dated August 16, 2007, claims 34-37, 40-45 and 51 were rejected under 35 U.S.C. § 103(a). Upon entry of this Amendment After Final, claims 34-37 and 40-45 will be canceled, and claims 51-60 will remain pending.

I. Objection to the Drawings

The Examiner objected to the drawings because certain reference numerals used in Figure 10 are used in other drawings to refer to different parts than in Figure 10. In this Amendment After Final, Applicants present a Replacement Sheet including a Replacement Figure 10, which corrects the re-use of reference numerals.

II. Amendments to the Specification

Applicants propose amending the specification to include the reference numerals used in Replacement Figure 10. Applicants respectfully assert that this amendment adds no new matter.

III. Rejection of the Claims Under 35 U.S.C. § 103

In the August 16th Office Action, the Examiner rejected claim 51 under 35 U.S.C. § 103 as being obvious over U.S. Patent Application No. 2002/0029591 (or U.S. Patent No. 5,284,499 ("Harvey")) in view of JP 08091862 ("Kazuya"), U.S. Patent No. 5,160,359 ("Strackenbrock"), U.S. Patent No. 4,547,644 ("Bair"), and optionally in view of U.S. Patent No. 4,988,374 ("Harding") and U.S. Patent No. 4,030,901 ("Kaiser"). The

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Examiner did not specifically explain why he asserts those references teach each recitation of claim 51, stating "See the prior Office action for the manner in which the combination of references would have all of the limitations of the claims." OA at 3.

But the prior Office Actions did not apply the art to claim 51. For example, while claim 51 was rejected in the May 21, 2007 Office Action, the Examiner did not explain in that Office Action how the references teach or suggest each limitation of claim 51, instead again stating "See the prior Office action for the manner in which the combination of references would have all of the limitations of the claims." But in the November 20, 2006 Office Action, the Examiner had not rejected claim 51 under § 103. Instead, in the November 20th Office Action, claim 51 was rejected only under 35 U.S.C. § 112, ¶ 1.

Applicants also respectfully contest the characterization in the August 16th Office Action of Applicants' contentions. According to the Examiner, "Applicant has not pointed out any patentable novelty in claim 51," citing MPEP 714.04 and 37 C.F.R. § 1.111. OA at 7. But as discussed in Applicants' July 31, 2007 Amendment, claim 51 recites subject matter that patentably distinguishes it from the cited art, such as:

a distributor body having a substantially annular distribution chamber, a distribution ring, and an outlet in fluid communication with an interior of the muffle, the distributor body configured to receive conditioning gas substantially tangentially with respect to the substantially annular distribution chamber, the distribution ring being adapted to uniformly introduce and forcedly direct a first portion of the conditioning gas into the muffle in a downward direction towards said furnace body and to direct a second portion of the conditioning gas to an upper portion of the substantially annular distribution chamber to create a buffer of conditioning gas having a pressure higher than a pressure outside the drawing furnace.

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Applicants pointed out in the July 31st Amendment that this feature is not found in the prior art, and that a *prima facie* case of obviousness has not been established. 7/31 Amendment at 14. Thus, Applicants respectfully disagree with the Examiner's contention that Applicants have not pointed out the patentable novelty of claim 51 in accordance with MPEP 714.04 and 37 C.F.R. § 1.111.

Furthermore, Applicants disagree that the above-quoted recitation of claim 51 is "clearly met for the reasons of record," as the Examiner suggests. OA at 6. The Examiner has not explained how the art of record supports a rejection of claim 51, particularly with respect to the above-quoted recitation. Accordingly, a *prima facie* case of obviousness has not been established in accordance with the MPEP and applicable law:

The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. § 103 should be made explicit.

MPEP 2142. The MPEP goes on to note that "The Federal Circuit has stated that 'rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.'" MPEP 2142 (*quoting In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)). Here, the above-quoted recitation of claim 51 has not been presented in any other claim. Accordingly, the previous rejections of other claims do not clearly articulate the reason why the Examiner believes the cited art teaches or suggests this recitation.

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Because the cited references do not disclose at least the above-quoted recitation of claim 51, a *prima facie* case of obviousness has not been established, and Applicants respectfully assert that claim 51 is in condition for allowance.

IV. New Claims

In this Amendment After Final, new dependent claims 52-60 are presented. Claims 52-60 correspond to claims 35-37 and 40-45, which have been canceled in this Amendment After Final. Because claims 52-60 depend from claim 51, Applicants respectfully assert that they are in condition for allowance and that their presentation in this Amendment After Final requires no new searching and does not raise new issues. Accordingly, Applicants request allowance of these claims.

V. Conclusion

Applicants respectfully request that this Response under 37 C.F.R. § 1.116 be entered by the Examiner in response to the Examiner's Final Office Action to correct informalities and to address aspects of the pending claims that are not found in the art cited by the Examiner. Applicants submit that the proposed response does not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner. Therefore, this Amendment should allow for immediate action by the Examiner. Moreover, Applicants submit that the entry of the Amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicants submit that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the entry of this

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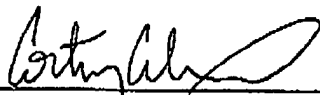
Response, the Examiner's reconsideration of the application, and the timely allowance of the pending claims.

If there are any fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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